

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIAFILED
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UNITED STATES OF AMERICA,

Plaintiff,

v.

1.) Joel DAVILA,

2.) Antonio ARROYO-Torres

Defendant(s)

Magistrate Case No.

COMPLAINT FOR VIOLATION OF:

Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii)

Transportation of Illegal

Aliens

Title 8 U.S.C., Sec. 1324 (a)(2)(B)(iii)

Bringing in Illegal Aliens Without

Presentation

The undersigned complainant, being duly sworn, states:

COUNT ONE

On or about **April 25, 2008**, within the Southern District of California, defendant **Joel DAVILA** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **David ANAYA-Calderon, Oswaldo RIOS-Venegas and Omar SANTOYO-Padilla** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

COUNT TWO

On or about **April 25, 2008**, within the Southern District of California, defendant **Antonio ARROYO-Torres**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **David ANAYA-Calderon, Oswaldo RIOS-Venegas and Omar SANTOYO-Padilla** had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

Ismael A. Canto

Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 28th DAY OF April 2008

Nita L. Stormes

UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:

Joel DAVILA

Antonio ARROYO-Torres

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

Furthermore, the complainant states that **David ANAYA-Calderon, Oswaldo RIOS-Venegas and Omar SANTOYO-Padilla**, are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On April 25, 2008, Border Patrol Agent J. Moore was performing his assigned duties in the area around Campo, California. At approximately 5:30 p.m., Agent Moore was parked on State Route 94 about three miles west of Campo, California looking for a group of suspected illegal aliens in the area. A few minutes prior, a seismic intrusion device located south of the Mountain Empire Campground had alerted. The Mountain Empire Campground is located about 3.5 miles west of Campo, California. This area is notorious for illegal aliens entering into the United States and alien smugglers picking them up on State Route 94.

Border Patrol Agent R. Russell, who was stationed on a hill over-looking the area, reported to Agent Moore via Service radio that he saw a white truck drive away from the area of the seismic intrusion device. Agent Russell also communicated to Agent Moore that he could see individuals pulling a blue tarp over themselves in the back of the pick-up truck which was heading eastbound on State Route 94 towards his direction. Approximately one minute later, a white truck with a blue tarp over the bed passed Agent Moore's location. No other vehicles had passed Agent Moore's location since Agent Russell's report. Agent Moore observed a young male with a shaved head driving the vehicle along with another occupant visible in the passenger seat of the cab. Agent Moore observed that the truck appeared to be riding very stiff, as if carrying a heavy load and the blue tarp had indentations with the outlines of human bodies.

As Agent Moore followed the vehicle for further investigation, he observed that the driver appeared to be watching him through the rear view and side mirrors and not paying attention to the roadway, crossing the centerline. Agent Moore then noticed someone in between the driver and the passenger through the back cab window trying to conceal themselves. Agent Moore continued to follow the vehicle into Boulevard, California. As Agent Moore proceeded toward Boulevard, he pulled alongside the truck and observed numerous bodies in the bed of the truck trying to conceal themselves with the blue tarp.

At approximately 6:11 p.m., Agent Moore activated his overhead emergency lights and conducted a vehicle stop on the pick-up truck west of Exit 65 on Interstate 8 near Boulevard, California. The driver later identified as the defendant **Joel DAVILA**, immediately pulled to the side of the Interstate. Agent Moore approached the driver's side door and identified himself as a Border Patrol Agent. The passenger later identified as defendant #2 **Antonio ARROYO-Torres**, also admitted to Agent Moore that he was a citizen and national of Mexico illegally present in the United States. Agent Moore then immediately noticed there was a third person lying on the seat between the driver and right front passenger. Agent Moore questioned the two passengers of the cab regarding their citizenship; both replied they were citizens of Mexico. When asked to see their immigration documents, both replied they did not have any documents allowing them to enter or remain in the United States legally. After questioning the occupants, Agent Moore lifted the edge of the blue tarp and located another thirteen individuals lying under the tarp. Agent Moore proceeded to question the individuals in the bed of the truck regarding their immigration status. All thirteen individuals stated they were citizens of Mexico and they were not in possession of valid United States immigration documents. At approximately 6:00 pm, Agent Moore placed the two defendants and the fourteen passengers of the vehicle under arrest and transported them to the El Cajon Border Patrol Station for further processing.

CONTINUATION OF COMPLAINT:

Joel DAVILA

Antonio ARROYO-Torres

DEFENDANT STATEMENT: Joel DAVILA

The defendant **Joel DAVILA** was advised of his Miranda Rights which he understood and was willing to make a statement without an attorney present. The defendant claimed to have been previously detained as a passenger at the San Ysidro Port of Entry in March for Alien Smuggling. The defendant states that he would have been paid \$100 per person for transporting them from the Potrero, California area to an undisclosed location. The defendant claims to not know the owner of the vehicle, but that it was purchased at an auction. The defendant states that he was notified by phone when to slow down and then waived down by a group of individuals on the side of the road. The defendant stated that he is aware he was transporting undocumented aliens and that he was violating the law.

MATERIAL WITNESSES STATEMENTS:

Material witnesses, **David ANAYA-Calderon, Oswaldo RIOS-Venegas and Omar SANTOYO-Padilla** agree in summary that they are citizens and nationals of Mexico illegally present in the United States. They admit to entering the United States illegally. The material witnesses stated that they were to pay approximately \$3,500.00 (US) to be smuggled into the United States. Material witnesses **David ANAYA-Calderon, Oswaldo RIOS-Venegas and Omar SANTOYO-Padilla**, identified the defendant **Antonio ARROYO-Torres** as the man leading the group on foot. **Oswaldo RIOS-Venegas** was shown a photographic line up and was able to identify the defendant, **Joel DAVILA** as the only individual who did not enter the United States with them and the driver of the vehicle.

Executed on April 27, 2008, at 9:00 a.m.



Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 2 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **April 25, 2008**, in violation of Title 8, United States Code, Section **1324**.



Nita L. Stormes
United States Magistrate Judge

4-27-08

Date/Time